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EXAMINER	
BASEHOAR, ADAM L	

ART UNIT	PAPER NUMBER
2178	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/656,531	ARMANDPOUR ET AL.	
	Examiner	Art Unit	
	Adam L. Basehoar	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 July 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to communications: The RCE filed 07/27/07.

2. Claims 1-28 remain rejected under 35 U.S.C. 103(a) as being unpatentable over DaCosta et al (US-6,826,553 11/30/04) in view of Weinberg et al (US-6,360,332 03/19/02).

3. Claims 1-28 are pending in the case. Claims 1, 12, and 18 are independent claims.

Claim Objections

4. Claims 1-11 are objected to because of the following informalities: Claim 1 does not show the current status of the claim language. Specifically claim 1 is currently missing, "executing on a server", previously amended into the preamble of the claim. Therefor the Examiner is interpreting claim 1 as previously recited in the copy of the claims submitted 02/26/07. Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-11 recite software program, which imparts functionality when employed as a computer component. Thus the software

program of claims 1-11 is considered functional descriptive material. Functional descriptive material per se is not statutory. Functional descriptive material must be claimed in combination with an appropriate computer readable medium to enable the functionality to be realized with the computer. Thus claims 1-11 are rejected under 35 U.S.C. 101 for failing to fall within a statutory category and for failing to be structurally and functionally interconnected with the software in such a manner to, in and of itself, enable any usefulness to be realized. Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over DaCosta et al (US-6,826,553 11/30/04) in view of Weinberg et al (US-6,360,332 03/19/02).

-In regard to substantially similar independent claims 1 and 12, DaCosta teaches an application for enabling automated notification of applied structural changes to electronic information pages on a network comprising:

an interface for enabling users to build and modify network navigation and interaction templates using functional logic blocks for automatically navigating to and interacting with interactive electronic information pages on the network (column 2, lines 11-30; column 5, lines 30-67)(Figs. 1 & 7);

a navigation interface for integrating the software application to a proxy-navigation system for periodic execution of the templates (column 5, lines 19-20: "automatically repeat these steps in a scheduled manner or when requested");

a change notification module for indicating a navigation and interaction routine has failed and for creating a data file associated with the failed routine (column 18, lines 43-67: "it is known the script has failed...and proper notifications sent to individuals or entities responsible for the operation of the failing script by email...for example"; column 19, lines 1-15); and

sending proper notifications of the failed script to the developer upon failure of the script (column 6, lines 9-13 & 35-41; column 18, lines 543-67; column 19, lines 1-15). DaCosta does not specifically teach storing the data file in a data repository with a point-of-failure indication, parameters associated with the failed routine, and an identifier of the associated electronic information page subjected to the navigation. Weinberg teaches storing the data file (column 2, lines 39-40; column 6, lines 19-22), wherein the application periodically submits test navigation and interaction routines (column 6, lines 19-22), and upon failure of the routine, creates a data file (column 2, lines 39-40; column 3, lines 29-43; column 6, lines 19-22; column 17, lines 10-52)(Fig. 5F), the data file comprising a point-of-failure indication within the failed routine (Fig. 5F: column 17, lines 17-21), parameters of the failure (column 17, lines 35-43), an identifier of the associated electronic page (columns 17-18: lines 62-12)(Fig. 5F: "URL: www.mercint.com"), and stores the data file in the data repository sending notification of the action to the developer (column 2, lines 39-40; column 6, lines 15-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to have stored

the failed navigation script of DaCosta and for the proper notifications of the failed script to have included a point in process of the failure along with the an identifier of the associated web page, because Weinberg teaches that by storing the failed navigation script, a developer can easily display the results of the navigation and quickly determine the location of the failure of the routine (column 3, lines 29-44). This would have made the re-teaching (i.e. correcting) of the navigation script easier for the developer (column 6, lines 9-13 & 35-41; column 18, lines 42-67).

-In regard to dependent claims 2, 13, and 19, DaCosta teaches wherein the network could be the Internet (column 2, line 13: "Internet") and wherein the electronic information page was a web page (column 2, line 13: "web site") on the network.

-In regard to dependent claim 3, DaCosta teaches wherein the logic blocks include site logic blocks, automated site-login blocks, and automated site-registration blocks (column 2, lines 55-67; column 5, lines 37-43).

-In regard to dependent claim 4, DaCosta teaches wherein the software application was an Internet based application executing and running on a server (column 18, lines 33-41: "scripts are stored at a central repository that is accessible through the Internet").

-In regard to dependent claim 5, DaCosta teaches wherein the application was accessible through a network browser (column 2, lines 10-30: "Browser").

-In regard to dependent claim 6, DaCosta teaches wherein the templates are test routines executed for determining success or failure of the routine (column 6, lines 9-13 & 35-41; column 18, lines 54-65).

-In regard to dependent claim 7, DaCosta teaches wherein the templates are executable instruction orders containing logic blocks (column 2, lines 55-67).

-In regard to dependent claim 8, DaCosta teaches wherein the functional logic blocks are modular and self-installable within the templates (column 2, lines 55-67)(Fig. 2: 60, 70, 80, 90).

-In regard to dependent claim 9, DaCosta teaches wherein the data files are human readable and are accessed by developers for the purpose of affecting updating of the navigation templates (column 18, lines 54-67).

-In regard to dependent claim 10, DaCosta teaches wherein the developers access the application via individual computerized workstations (column 18, lines 34-67)(Fig. 7: "User Developer").

-In regard to dependent claim 11, DaCosta teaches wherein the error notification and data file are performed in the event failure or a client's personalized navigation template (column 6, lines 9-13 & 35-41; column 18, lines 34-67).

-In regard to dependent claim 14, DaCosta teaches wherein the software application was an Internet (column 2, line 13: "Internet") based application executing and running on a server (column 18, lines 26-40).

-In regard to dependent claims 15 and 16, DaCosta teaches wherein a single server system hosting both the proxy navigation software and the software application (column 18, lines 26-40).

-In regard to dependent claim 17, DaCosta teaches wherein software application and the proxy navigation software are integrated as a single application enabling both functions of navigation according to navigation templates and notifying and recoding failed instances of navigation (column 18, lines 26-67).

-In regard to independent claim 18, DaCosta teaches a method for receiving automated notification of random structural changes applied to electronic information pages hosted on a network comprising:

-establishing notification of a failed navigation and interaction routine executed for the purpose of navigating to and interacting with an electronic information page (column 6, lines 9-13 & 35-41; column 18, lines 34-67: "email or pager notification").

-creating an instance of the failed routine associated with the cause of failure (column 18, lines 43-67: "it is known the script has failed...and proper notifications sent

to individuals or entities responsible for the operation of the failing script by email...for example"; column 19, lines 1-15);

-accessing the notification of the of the failed routine for review purposes (column 6, lines 9-13 & 35-41; column 18, lines 34-67: i.e. developer accesses failed script for re-teaching purposes);

-being able to navigate to the electronic information page identified in the recorded instance (column 6, lines 9-13 & 35-41; column 18, lines 34-67: i.e. developer accesses failed script for re-teaching purposes);

-accessing source information associated with the electronic information page identified in the recorded instance (i.e. re-teaching a new navigation and extraction script by accessing the source information).

-creating new logic according to the source information and according to information contained in the recorded instance (column 6, lines 9-13 & 35-41; column 18, lines 34-67);

installing the new logic into existing navigation templates that depend on the updated information for successful function (column 6, lines 9-13 & 35-41; column 18, lines 34-67; column 19, lines 1-15).

DaCosta does not specifically teach wherein the instance of the failed navigation routine was stored for future review including parameters associated with the failed routine. Weinberg teaches storing the data file (column 2, lines 39-40; column 6, lines 19-22), wherein the application periodically submits test navigation and interaction routines (column 6, lines 19-22), and upon failure of the routine, creates a data file (column 2, lines 39-40; column 3, lines 29-43; column 6, lines 19-22; column 17, lines

10-52)(Fig. 5F), the data file comprising a point-of-failure indication within the failed routine (Fig. 5F: column 17, lines 17-21), parameters of the failure (column 17, lines 35-43), an identifier of the associated electronic page (columns 17-18: lines 62-12)(Fig. 5F: "URL: www.mercint.com"), and stores the data file in the data repository sending notification of the action to the developer (column 2, lines 39-40; column 6, lines 15-23). It would have been obvious to one of ordinary skill in the art at the time of the invention to have stored the failed navigation script of DaCosta and for the proper notifications of the failed script to have included a point in process of the failure along with the an identifier of the associated web page, because Weinberg teaches that by storing the failed navigation script, a developer can easily display the results of the navigation and quickly determine the location of the failure of the routine (column 3, lines 29-44). This would have made the re-teaching (i.e. correcting) of the navigation script easier for the developer (column 6, lines 9-13 & 35-41; column 18, lines 42-67).

-In regard to dependent claim 20, DaCosta teaches wherein the navigation routine was performed according to a test navigation template (Fig. 2: i.e. according to the navigation and extraction scripts)

-In regard to dependent claim 21, DaCosta teaches wherein the navigation routine was performed according to a client navigation template (Fig. 7: "User").

-In regard to dependent claim 22, DaCosta teaches wherein the recorded instance of the failed routine was created in the form of a data file and stored in a data repository (column 18, lines 54-67).

-In regard to dependent claim 23, DaCosta teaches wherein the recorded instance of the failed navigation routine was accessed by a software developer (column 6, lines 9-13 & 35-41; column 18, lines 54-67).

-In regard to dependent claim 24, DaCosta teaches wherein navigation was performed by the developer utilizing an instance of a browser installed on a computerized workstation (column 2, lines 11-30).

-In regard to dependent claim 25, DaCosta teaches wherein the new logic was in the form of a modular logic block installable to a navigation template (column 6, lines 9-13 & 35-41; column 18, lines 54-67).

-In regard to dependent claim 26, DaCosta teaches wherein the new logic block self-installs to a depended navigation template (column 6, lines 9-13 & 35-41; column 18, lines 42-67: "ensure each of the users has a corrected script as soon as possible, i.e., as soon as it is downloaded to the central repository...running the script").

-In regard to dependent claim 27, DaCosta teaches testing the new logic before the implementation (column 19, lines 1-15: "determine whether it is operating correctly").

-In regard to dependent claim 28, DaCosta teaches creating more than one logic block within a navigation template and wherein more than one block could fail (column 6, lines 9-13 & 35-41; column 18, lines 34-67; column 19, lines 1-15).

Response to Arguments

9. Applicant's arguments filed 07/27/07 have been fully considered but they are not persuasive.

-In regard to independent claims 1 and 12, Applicant argues that DaCosta does not teach or suggest functional logic blocks as claimed by Applicant. The Examiner respectfully disagrees with the Applicant. DaCosta clearly teaches generating user or developer navigation/interaction scripts (i.e. templates) using functional logic blocks (column 2, lines 20-31: "scripts...that locates and extracts data...precisely locating and extracting the select data with a granularity specified by the user"). DaCosta further teaches recording/creating the navigation and interaction by utilizing functional logic blocks (column 2, lines 57: "capability for a user to specify...in an automated manor"; column 5, lines 39-55: "learn and store navigation paths...dialogs and forms that need to be filled...login name and password"; column 7, lines 16-28: "captures each user-generated event."; columns 7-8, lines 55-5: "automatically repeatedly query a web site...upon a single exemplematic query"; column 9, lines 5-44). Thus the developer of

DaCosta records working/functional logic blocks in the created scripts that both process navigation/access to a plurality of web pages as well as working/functional logic blocks to locate/extract dynamic data. For example, DaCosta teaches stored logic blocks for filling out a user name and password to access a web document, logic blocks for dialogs and forms to filled out, logic blocks for selecting links or buttons, logic blocks for entering data, as well as logic blocks for pattern matching document content to find dynamic data. As currently claimed, said recited features of DaCosta meet the limitations of Applicant's "functional logic blocks."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. "site logic portion of a navigation script may contain more than one identifiable interaction task" and "site logic-blocks...contain all of the possible interaction instructions available at the associated site") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

-Applicant requested clarification on the relied upon prior art. The Examiner recognizes that the filing date of the DaCosta reference alone would not provide an appropriate date required for proper prior art. However in view of the claimed priority to the continuation-in-part application (i.e. 09/465,028) and the provisional applications (i.e. 60/147,875 & 60/112,769), the cited disclosure is given the appropriate priority date that it deserves. The Examiner notes that disclosure of the continuation-in-part application (i.e. 09/465,028) fully supports the relied upon disclosure of the DaCosta reference to

reject the claimed subject matter. Please note the following sections of the CIP application (Page 1: "true of the input side....queries"; Page 4: "one can automatically....scheduled manner or when requested"; Page 5: "tool, which can be used by developers, or web users utilizing a proper interface....but also the required steps to navigate thereto, and play them back"; Pages 7-9: "Hierarchy objects or elements...automatically run based upon a signal exeplematic query"; Page 11: "according to which data will be extracted...identify the pattern"; Page 19: "From the general standpoint...in a database format"; Pages 24-25: "In a preferred embodiment...from a plurality of vendors websites")(Figs. 1, 2, and 7). Specifically the Applicant argues that cited column 18, lines 26-32 of the DaCosta reference pertains to new matter. The Examiner agrees with the Applicant that that specific citation should not be given the date of the CIP. However said newly cited section (i.e. column 18, lines 34-41) should be given the benefit of at least the CIP application.

In regard to Applicant's understanding of provisional applications, the Examiner notes that if an application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application.

For arguments sake, the Examiner notes that the indication of a point in process was not necessarily required to be for a navigation routine as argued by Applicant. Applicant's claims both navigation and interaction routines, whereby the point in process indication could be in view of an interaction routine. The Examiner believes that DaCosta in view of Weinberg teach both.

For reference, the Examiner has included the previous response to Applicant's argument with regard to the Weinberg reference. Weinberg clearly teaches storing the a data file (column 2, lines 39-40; column 6, lines 19-22), wherein the an application periodically submits test navigation and interaction routines (column 6, lines 19-22), and upon failure of the routine, creates a data file (column 2, lines 39-40; column 3, lines 29-43; column 6, lines 19-22; column 17, lines 10-52)(Fig. 5F), the data file comprising a point-of-failure indication within the failed routine (Fig. 5F: column 17, lines 17-21), an identifier of the associated electronic page (columns 17-18: lines 62-12)(Fig. 5F: "URL: www.mercint.com"), and stores the data file in the data repository sending notification of the action to the developer (column 2, lines 39-40; column 6, lines 15-23). In view of the drawings, Weinberg also clearly teaches recording a point-of-failure indication (Fig. 5F: 88 & 89) within the failed routine, indicating that that verification step failed and thus the status of the test as a whole had failed (column 17, lines 50-52). As discussed before, Weinberg teaches wherein results of the test navigation and interaction routines, including the results of the verification steps were stored for viewing (column 2, lines 39-40). Weinberg also teaches wherein displaying the test results in a hierarchical tree ("report tree") can also display the results of the verification steps graphically within the report tree, such as displaying a green check mark or a red "X" symbol to indicate pass/fail status (column 3, lines 29-43; column 17, lines 10-52). Thus the Weinberg reference indicates to the developer via the report tree the point-in-process has failed by displaying a red "X" symbol in the report tree (Fig. 5F: i.e. Red "X" shows that Test Iteration 4 has failed. The Test Status (90) also shows that the current test status is "Failed").

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam L. Basehoar whose telephone number is (571)-272-4121. The examiner can normally be reached on M-F: 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Adam L. Basehoar